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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,290	07/21/2003	Lawrence M. Janesky	257-011175-US(PAR)	7389
2512	7590	03/30/2006	EXAMINER	
PERMAN & GREEN 425 POST ROAD FAIRFIELD, CT 06824			NGUYEN, CHI Q	
			ART UNIT	PAPER NUMBER
			3635	
DATE MAILED: 03/30/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/624,290	<b>Applicant(s)</b> JANESKY, LAWRENCE M.	
	<b>Examiner</b> Chi Q Nguyen	<b>Art Unit</b> 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 August 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 August 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This Office action is in response to the applicant's amendment filed on 8/10/2005.

#### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the backing, tile upper surface having carpeting/linoleum preattached thereto, or decorative finish must be shown or the feature(s) canceled from the claim(s) and also structural element 22 is not shown in the drawings. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regard claim 3, the citation such as "a backing" is positively claimed and it is not clear that the backing is part of a tile or floor?

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, 8-13, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Skandis (US 6,098,354).

In regard claim 1, Skandis discloses modular floor tile comprising a plurality of identical unitary, rigid strong, water-resistant floor tiles 10, which have a solid planar upper surface 12 (figure 5) and means 32, 34 for interlocking with each other to form a water-impervious floor covering over a floor (col. 4, lines 40-44), said tiles 10 having an undersurface 16, a network or gridwork 18 of integral spaced raised water resistant studs 28 or wall sections 40 projecting from the undersurface of said tiles for contacting the surface of the concrete floor (col. 4, line 32).

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In regard claim 2, Skandis teaches the claimed invention as stated, which said water resistant floor tiles 10 are molded with said studs or legs 28 therewith and provide said air gap space network there between (figure 3).

In regard claim 3, Skandis teaches the claimed invention as stated, wherein the studs or legs 28 are integral to sheet material of the floor tiles.

In regard claim 4, Skandis teaches the claimed invention as stated, wherein the floor tiles 10 comprises edge means 32, 34 for interlocking with each other when said tiles are abutted (fig. 4, col. 3, lines 43-49).

In regard claim 5, Skandis teaches the claimed invention as stated, wherein the interlocking means 32 or 34, each having post 48 serves as tongue and aperture 58 serves as groove and both tongue and groove are abutted together (col. 3, lines 47-55).

In regard claim 6, Skandis teaches the claimed invention as stated, wherein the tiles are made from polyethylene and polypropylene (col. 4, line 24).

In regard claim 8, since the Skandis teaches the similar structural elements to the applicant's invention therefore it capable of performing the similar function such as providing a thermal break between the surface of the concrete floor and the upper surface of the tile.

In regard claim 9, Skandis teaches the claimed invention as stated, wherein the tiles material is plastic thus having insulation and heat conduction resistant characteristics.

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In regard claim 10, Skandis teaches the claimed invention as stated, wherein the air gap space network is interconnected and is vented between the network space of the legs (see figure 5).

In regard claim 11, Skandis teaches the claimed invention as stated, wherein the air gap space is vented by exhausting water vapor therefrom to an exterior location.

In regard claim 12, Skandis teaches the claimed invention as stated, wherein the air gap space is vented by circulating dry air therethrough to displace water vapor therefrom.

In regard claims 13, 16, Skandis teaches the claimed invention as stated, wherein the upper surface 12 of the tiles 10 having decorative finish (see figs. 1-2).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7, 14, 15, and 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Skandis (US 6,098,354).

In regard claim 7, Skandis teaches the structural elements for the floor tiles as stated. Skandis does not specifically teach the floor tile having a thickness of 5/6" to 1 1/2". Applicant fails to show criticality for specifically claimed thickness, therefore it would

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have been an obvious design choice to use the thickness such as specified in these claims.

In regard claims 14, 15, and 17-18, Skandis teaches the structural elements for the floor tile as stated. However, Skandis does specifically teach the tile upper surface having carpeting, or linoleum preattached. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have a decorative upper surface tile such as carpeting or linoleum preattached onto the tiles. The motivation for doing would have been to provide the tiles more decorative designs thus aesthetically pleasing surfaces.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-18 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kiing and Ettlinger teach flooring tiles.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not


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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Chi Q. Nguyen whose telephone number is (571) 272-6847, Mon-Thu (7:00-5:30), Fridays off or examiner's supervisor, Carl Friedman can be reached at (571) 272-6842. The examiner's right fax number is (571) 273-6847.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pairdirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197.

3/22/2006

  
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N. Slack  
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